
SUBSTITUTE SENATE BILL 5228

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Commerce & Trade (originally sponsored by Senators Regala, Winsley, Rasmussen, Schmidt, Haugen, Kastama and Franklin)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to selling or leasing contaminated property;
2 amending RCW 64.44.010, 64.44.030, and 64.44.050; adding a new section
3 to chapter 46.12 RCW; prescribing penalties; and providing an effective
4 date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 64.44.010 and 1999 c 292 s 2 are each amended to read
7 as follows:

8 The words and phrases defined in this section shall have the
9 following meanings when used in this chapter unless the context clearly
10 indicates otherwise.

11 (1) "Authorized contractor" means a person who decontaminates,
12 demolishes, or disposes of contaminated property as required by this
13 chapter who is certified by the department as provided for in RCW
14 64.44.060.

15 (2) "Contaminated" or "contamination" means polluted by hazardous
16 chemicals so that the property is unfit for human habitation or use due
17 to immediate or long-term hazards. Property that at one time was
18 contaminated but has been satisfactorily decontaminated according to

1 procedures established by the state board of health is not
2 "contaminated."

3 (3) "Hazardous chemicals" means the following substances used in
4 the manufacture of illegal drugs: (a) Hazardous substances as defined
5 in RCW 70.105D.020, and (b) precursor substances as defined in RCW
6 69.43.010 which the state board of health, in consultation with the
7 state board of pharmacy, has determined present an immediate or long-
8 term health hazard to humans.

9 (4) "Officer" means a local health officer authorized under
10 chapters 70.05, 70.08, and 70.46 RCW.

11 (5) "Property" means any property, site, structure, or part of a
12 structure which is involved in the unauthorized manufacture or storage
13 of hazardous chemicals. This includes but is not limited to single-
14 family residences, units of multiplexes, condominiums, apartment
15 buildings, storage units, vessels, boats, motor vehicles including
16 recreational vehicles and motor homes, trailers, manufactured housing,
17 or any shop, booth, or garden.

18 **Sec. 2.** RCW 64.44.030 and 1999 c 292 s 4 are each amended to read
19 as follows:

20 (1) If after the inspection of the property, the local health
21 officer finds that it is contaminated, then the property shall be found
22 unfit for use. The local health officer shall cause to be served an
23 order prohibiting use either personally or by certified mail, with
24 return receipt requested, upon all occupants and persons having any
25 interest therein as shown upon the records of the auditor's office of
26 the county in which such property is located. The local health officer
27 shall also post the order prohibiting use in a conspicuous place on the
28 property. If the whereabouts of such persons is unknown and the same
29 cannot be ascertained by the local health officer in the exercise of
30 reasonable diligence, and the health officer makes an affidavit to that
31 effect, then the serving of the order upon such persons may be made
32 either by personal service or by mailing a copy of the order by
33 certified mail, postage prepaid, return receipt requested, to each
34 person at the address appearing on the last equalized tax assessment
35 roll of the county where the property is located or at the address
36 known to the county assessor, and the order shall be posted
37 conspicuously at the residence. A copy of the order shall also be

1 mailed, addressed to each person or party having a recorded right,
2 title, estate, lien, or interest in the property. The order shall
3 contain a notice that a hearing before the local health board or
4 officer shall be held upon the request of a person required to be
5 notified of the order under this section. The request for a hearing
6 must be made within ten days of serving the order. The hearing shall
7 then be held within not less than twenty days nor more than thirty days
8 after the serving of the order. The officer shall prohibit use as long
9 as the property is found to be contaminated. ((A))

10 (2) If the property found by the local health official to be unfit
11 for use is:

12 (a) Real property, a copy of the order shall also be filed by the
13 local health official with the auditor of the county in which the
14 property is located, and such filing of the complaint or order shall
15 have the same force and effect as other lis pendens notices provided by
16 law;

17 (b) A vehicle that is titled under chapter 46.12 RCW, a copy of the
18 order shall be submitted by the local health official to the department
19 of licensing. The local health official shall identify the vehicle by
20 (i) year, make, and model; (ii) license plate number; and (iii) vehicle
21 identification number, if the information is discernable or known. A
22 report containing the information required by this section may be
23 submitted electronically in lieu of a copy of the order, if the
24 department has the capability to receive, verify the authenticity of,
25 and process the report in electronic form; or

26 (c) A mobile home or manufactured home as defined in RCW 46.04.302,
27 a copy of the order shall be submitted by the local health official to
28 the department of licensing.

29 (3) In any hearing concerning whether property is fit for use, the
30 property owner has the burden of showing that the property is
31 decontaminated or fit for use. The owner or any person having an
32 interest in the property may file an appeal on any order issued by the
33 local health board or officer within thirty days from the date of
34 service of the order with the appeals commission established pursuant
35 to RCW 35.80.030. All proceedings before the appeals commission,
36 including any subsequent appeals to superior court, shall be governed
37 by the procedures established in chapter 35.80 RCW.

1 **Sec. 3.** RCW 64.44.050 and 1999 c 292 s 6 are each amended to read
2 as follows:

3 (1) An owner of contaminated property who desires to have the
4 property decontaminated shall use the services of an authorized
5 contractor unless otherwise authorized by the local health officer.
6 The contractor shall prepare and submit a written work plan for
7 decontamination to the local health officer. The local health officer
8 may charge a reasonable fee for review of the work plan. If the work
9 plan is approved and the decontamination is completed and the property
10 is retested according to the plan and properly documented, then the
11 health officer shall allow reuse of the property(~~(.—A))~~, and shall
12 issue to the owner a release for reuse document, describing the
13 property being released and indicating the property has been
14 decontaminated in accordance with rules of the state department of
15 health. The local health official may charge a reasonable fee for
16 making certified copies of release for reuse documents.

17 (2) If a seller or lessor fails to disclose the fact that a
18 property was at one time found to be unfit for use under RCW 64.44.030,
19 the purchaser or lessee has the right of rescission and may recover
20 under chapter 19.86 RCW.

21 (3) The seller or lessor of any decontaminated property that is
22 real property, who received the release for reuse document from the
23 local health official, shall record the release for reuse document
24 (~~(shall be recorded))~~ in the real property records (~~(indicating the~~
25 property has been decontaminated in accordance with rules of the state
26 department of health)) of the county in which the property is located.

27 (4) The seller or lessor of any decontaminated property that is not
28 real property, who received the release for reuse document from the
29 local health official, shall give a copy of the release for reuse
30 document to the purchaser or lessee of the property. If the
31 decontaminated property is a vehicle titled under chapter 46.12 RCW,
32 the seller or lessor may, upon payment of the fees required by the
33 department of licensing, file with the department a certified copy of
34 the release for reuse document but only if the seller or lessor also
35 applies at the same time for a new title as provided under section 4(2)
36 of this act.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.12 RCW
2 to read as follows:

3 (1) When a local health official notifies the department that the
4 official has found a vehicle titled under this chapter, or a mobile
5 home as defined in RCW 46.04.302, to be unfit for use under RCW
6 64.44.030, the department shall make a notation on the record, if one
7 exists, maintained by the department for that vehicle or mobile home.
8 The notation must indicate that the vehicle has been found to be unfit
9 for use due to chemical contamination. Except as provided under
10 subsection (2) of this section, the department shall not transfer the
11 certificate of ownership and shall not renew the certificate of
12 registration for any vehicle about which the department has received a
13 notice from a local health official under this section.

14 (2) The department shall issue to a registered owner, legal owner,
15 purchaser, or lessee a unique certificate of ownership and certificate
16 of license registration, as required by chapter 46.16 RCW when the
17 department receives (a) an application for a certificate of ownership;
18 (b) a certified copy of a release for reuse document, as provided under
19 RCW 64.44.050(3); and (c) the original certificate of ownership or an
20 affidavit of lost title from a registered owner, legal owner,
21 purchaser, or lessee. Each certificate of ownership associated with a
22 vehicle issued after receipt of a release for reuse document must
23 conspicuously display across its front the following words:
24 "Decontaminated/Reusable." Each certificate of registration associated
25 with the vehicle must include a notation to the same effect.

26 (3) The department may adopt rules as necessary to implement this
27 section.

28 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2004.

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